

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUSTYN KUCERA,

Defendant.

8:13CR249

ORDER

This matter is before the court on the Petition for Action on Conditions of Pretrial Release (Petition) regarding defendant Justyn Kucera (Kucera) (Filing No. 133). On July 17, 2013, Kucera was ordered released upon conditions pending further proceedings (Filing No. 51). The order was modified on September 17, 2013, wherein Kucera was to reside at the Houses of Hope halfway house in Lincoln, Nebraska, and abide by other conditions of release (Filing No. 66). On November 26, 2013, Pretrial Services Officer Todd M. Beacom submitted a Petition alleging Kucera had violated the conditions of his release by being discharged from the Houses of Hope halfway house for using K2 and failing to report other residents using K2. A warrant for Kucera's arrest was issued.

Kucera appeared before Magistrate Judge F.A. Gossett on November 27, 2013. He was represented by Alan G. Stoler and the United States was represented by Assistant U.S. Attorney Thomas J. Kangior. After being advised of the nature of the allegations, his rights, and the consequences if the allegations were found to be true, Kucera admitted the allegations. The allegations of the petition are generally true and Kucera has violated the conditions of his release. Disposition of the violations was deferred for a hearing on December 2, 2013.

Kucera appeared before the undersigned magistrate judge on December 2, 2013. He was represented by Alan G. Stoler and the United States was represented by Assistant U.S. Attorney Thomas J. Kangior. The court took judicial notice of the Pretrial Services Violation Report (Filing No. 137 - Sealed) as well as an investigative report (Filing No. 146 - Sealed). Kucera asked to be released to his aunt's residence in David City, Nebraska. The government requested detention pending Kucera's sentencing on February 21, 2014. After providing both parties an opportunity for allocution as to disposition and considering the report of Pretrial Services, I find the Order Setting Conditions of Release should be revoked. Kucera has demonstrated he is unable to comply with rules of his release. The court will consider a release plan for Kucera which involves treatment options and placement away from the Columbus, Nebraska, area where Kucera involved himself in activities leading to his guilty plea. However, the burden of locating and screening Kucera for such placement will be upon the defendant.

IT IS ORDERED:

1. The Petition For Action on Conditions of Pretrial Release (Filing No. 133) is granted.
2. The July 17, 2013, Order Setting Conditions of Release (Filing No. 51) as modified by the Consent Order of September 17, 2013 (Filing No. 66) of Justyn Kucera is hereby revoked.
3. The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 2nd day of December, 2013.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge